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SENATE BILL 1165 By
Haynes

HOUSE BILL 1109
By Boner

AN ACT to amend Tennessee Code Annotated, Section 37-1-134,
relative to transfers from juvenile court to criminal court.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 37-1-134, is amended by adding the following new subsection to be designated as subsection (c) and by relettering existing subsections and cross-references accordingly:

(c)

(1) If the appropriate district attorney general is of the opinion that a child allegedly committing a delinquent act on or after July 1, 1997 based on conduct which constitutes one (1) of the offenses set out in subpart (3) of this subsection should be transferred to the sheriff of the county to be held according to law and to be dealt with as an adult in the criminal court of competent jurisdiction, and a petition has been filed alleging such delinquency, the district attorney shall, prior to the court hearing the petition on the merits, file a petition for the transfer of such child. Upon receipt of such a petition the court shall give reasonable notice in writing of the time, place and purpose of the hearing to the child and the child's parents, guardian or other custodian at least three (3) days prior to the hearing and shall then conduct a hearing on whether the transfer should be made in conformity with §§ 37-1-124, 37-1-126 and 37-1-127.

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(2) The court shall grant the transfer petition without further inquiry and the disposition of the child shall be as if the child were an adult if the court finds that there are reasonable grounds to believe that:

(A) The child committed the delinquent act as alleged;

(B) The delinquent act committed constitutes one (1) of the offenses specified in subpart (3) of this subsection; and

(C) The child is not committable to an institution for the mentally retarded or mentally ill.

(3) The offenses to which the provisions of this subsection are applicable are first degree murder, second degree murder, rape, aggravated rape, aggravated robbery, especially aggravated robbery, kidnapping, aggravated kidnapping, especially aggravated kidnapping or an attempt to commit any of such offenses.

(4) The district attorney general may not seek, nor may any child transferred under the provisions of this subsection receive, a sentence of death for the offense for which the child was transferred.

(5) If a child sixteen (16) years of age or more at the time of the alleged conduct commits an offense on or after July 1, 1997 that is not enumerated in subpart (3) of this subsection, the provisions of subsections (a) and (b) of this section shall apply to the transfer of such child to criminal court.

SECTION 2. This act shall take effect July 1, 1997, the public welfare requiring it and shall apply to juveniles committing named offenses on or after such date.